

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-3 and 5-14 are in this case. Claims 1-3 and 5-14 have been rejected under § 102(b) or § 103(a). Independent claim 1 has now been amended and dependent claim 14 has been canceled.

Telephone Interview Summary

Reference is made to a brief telephone interview conducted on February 24, 2005, between Examiner Sarah K. Webb for the PTO and Mr. Daniel Michaels, speaking under the auspices of Dr. Mark Friedman for the Applicant. The discussion related to the rejection of claim 14 over the Amplatz reference of record. No agreement was reached regarding the allowability of any claim.

In an effort to expedite prosecution of the present application, and notwithstanding various additional substantive arguments and/or amendments which the Applicant may consider submitting to overcome the rejections of record, the Applicant specifically asked whether the Examiner would be prepared to give substantive consideration after final rejection to a small-scale amendment introducing the limitations of claim 14 to claim 1 and dropping the word "substantially".

Without in any way committing herself regarding the allowability of any claim, the Examiner did undertake to give serious consideration to such an amendment, and said that the amendment would be entered if the Examiner finds that it puts the application in condition for allowance.

The amendment as discussed has now been implemented, as will be discussed below. The Applicant thanks the Examiner for her helpfulness.

§ 102(b) and § 103(a) Rejections

The Examiner has rejected claims 1-3 and 14 under § 102(b) as being anticipated by Amplatz (US 5171233). The Examiner has also rejected claims 1-3, 5-7 and 9-13 under § 103(a) as being unpatentable over Barbut et al. (US 5769816) in view of Amplatz. Finally, the Examiner has also rejected claims 1-3 and 8 under § 103(a) as being unpatentable over Spaeth et al. (US 5312416) in view of Amplatz. The Examiner's rejections are respectfully traversed.

Amplatz discloses a snare for retrieving objects from blood vessels. The snare is clearly intended to be undersized relative to the blood vessel so that it can be manipulated. The snare is formed with an outwardly projecting distal tip portion (designated by numerals 25, 26, 27) which projects outwards from the general round or oval profile of the snare (see Figure 1b). This projecting distal tip is disclosed as facilitating insertion of the loop into the proximal end of a catheter (col. 4 lines 17-28). The relatively sharp outward projection from the loop would make the structure of Amplatz clearly unsuitable for deployment as an intravascular platform in contact with the vessel wall since the projection would be likely to perforate the wall of the blood vessel.

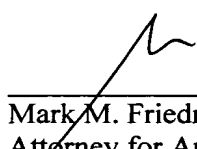
As discussed with the Examiner in the above-referenced telephone interview, and without in any way prejudicing the patentability of the rejected claims, the Applicant has now amended independent claim 1 to include the limitations of now-canceled dependent claim 14 and dropping the word "substantially" in order to expedite the current prosecution. Amended independent claim 1 is believed to be clearly patentable over the art of record as follows:

- Regarding the § 102(b) rejection of claim 14 over Amplatz, the Applicant submits that Amplatz clearly fails to disclose the recited “*formation for retention [which] is circular as viewed along said feed direction*”.
- Regarding non-obviousness, the Applicant respectfully submits that one familiar with Amplatz would lack any motivation to modify Amplatz by removal of the outwardly projecting distal tip since the retrieval snare of Amplatz is fully suited to its intended use with the projecting tip, and the projecting tip itself is disclosed as performing a valuable function for facilitating insertion into the proximal end of a catheter.
- The Spaeth reference similarly does not provide any motivation for removing the valuable projecting distal tip feature from Amplatz since Spaeth too relates to a snare where there is no need to avoid an outward projection.
- Finally, the Examiner’s proposed modification of Barbut in view of Amplatz also fails to teach the invention of amended claim 1. Specifically, Barbut neither teaches nor in any way suggests that frictional contact of a loop against the wall of a vessel could be used for retention of a device in position within the vessel. In the absence of such teaching, the tie wires of Barbut would be understood by one ordinarily skilled in the art to be an essential feature of the device, required both for maintaining position of the deployed filter and for closing the filter during retrieval. Given the indispensable presence of an alternative deployment mechanism for aligning the ring of Barbut, one ordinarily skilled in the art would completely lack motivation for modification of Barbut according to any teaching of Amplatz.

Amended independent claim 1 now features language which makes it absolutely clear that the device of the present invention includes a loop elastically biased to a predefined curved form such that, when the closed loop is advanced beyond the delivery system, the biasing to a curved form results in deployment of the loop in a direction generally perpendicular to the feed direction, and further that the loop is circular as viewed along the direction of delivery. The Applicant believes that the amendment of the claims completely overcomes the Examiner's rejections on § 102(b) and § 103(a) grounds.

In view of the above amendments and remarks it is respectfully submitted that independent claim 1, and hence also dependent claims 2, 3 and 5-13, are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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